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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,756	10/08/2003	Robert Bruce Miller	26015-194/P86	8282
39607	7590	08/23/2005		
PETER K HAHN LUCE, FORWARD, HAMILTON, SCRIPPS, LLP. 600 WEST BROADWAY SUITE 2600 SAN DIEGO, CA 92101			EXAMINER THOMAS, COURTNEY D	
			ART UNIT 2882	PAPER NUMBER

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,756

Applicant(s)

MILLER, ROBERT BRUCE

Examiner

Courtney Thomas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Objections

2. Claims 1-53 are objected to because of the following informalities:

3. Representative claim 1 recites the preamble: "In a combination for..." Examiner suggests the preamble be re-written as: "A system for ..." as suggested by the disclosure [0001].

4. Additionally, representative claim 32 recites the preamble: "In a method for irradiating a pallet, the steps of: ..." Examiner suggests the preamble be re-written for clarity as follows: "A method for irradiating a pallet, comprising the steps of: ..." as suggested by the disclosure [0001].

5. Claim 30 recites a preamble directed to a method, however this claim depends from an "apparatus" claim (claim 27). As written, it is unclear what applicant considers being his invention.

6. Claim 7, recites: ... a microprocessor is provided **to obtain** ... Examiner notes that the use of the term "to obtain," in this context is ambiguous (see also, in the same claim the use of the term "to provide").

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7. The claims have not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the claims.

8. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Koenck et al.

(U.S. Patent 6,931,095).

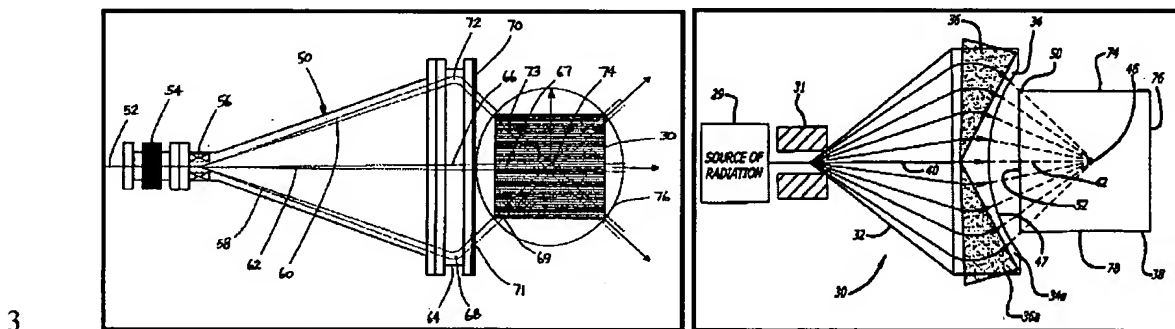


Fig. 4 (Left) - System for Irradiating Articles - U.S. Patent 6,931,095 to Koenck et al.;

Fig. 2 (Right) - X-ray Pallet Processing – U.S. Patent Application Publication 2005/0078789 to Miller (Instant Application 10/681,756)

4. As per claims 1, 2, 18, 19 and 32-53, Koenck et al. disclose a system (and corresponding method of irradiating) comprising: a source of radiation (not shown in Fig. 4 above; Examiner notes however, Fig. 4 is indicative of system configured to irradiate a pallet (30) with X-ray

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radiation (69- note X-ray converter 70)) having first and second states for directing radiation in a first plane toward the pallet in the first state and for not directing radiation toward the pallet in the second state; a holder (not shown above, see Figs. 12 and 13) having first and second states for moving the pallet (30) in a second plane substantially perpendicular to the first plane during the first state of the source and for preventing any movement of the pallet in the second state of the source and a motor (not shown above, see Figs. 12 and 13) having first and second states of operation for rotating the pallet on an axis substantially corresponding to the second plane during the second state of the source of radiation (see also column 7, lines 13-67; column 8, lines 1-41).

5. As per claims 3-17 and 20-31, Koenck et al. disclose a system comprising a magnetic lens assembly (64 - column 4, lines 50-67; column 5, lines 1-22; as per discussions regarding motor operation see cited Figs. and columns above); wherein the source provides X-rays (69 - note X-ray converter 70); wherein a microprocessor is provided to operate the source of radiation and the pallet in the first state and then to operate the motor in the first state with the source of radiation and the pallet in the second state (see column 4, lines 32-37; column 7, lines 13-67; column 8, lines 1-41).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Courtney Thomas whose telephone number is (571) 272-2496. The examiner can normally be reached on M - F (9 am - 5 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Glick can be reached on (571) 272 2490. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Courtney Thomas
Examiner
Art Unit 2882